

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. Applicant would also like to thank the Examiner for his time. The application has been carefully amended to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1-36 are pending in the current amendment. By the present amendment, claims 34-36 are new to the application. As such, it is now respectfully submitted that each of the claims 1-36 are in condition for allowance.

It is respectfully requested that the rejection of claims 1-3, 7, 9-11, 14-15, 17-19, 23, 25-27, 31, and 33 under 35 U.S.C. 102(b) as being anticipated by Fackler (U.S. Patent No. 5,463,692) be withdrawn. The Office action on page 5 states that "Fackler shows the actuator (120, 125, 68A-68F) and the switching element (66A, 90, 92A-92F, 94) are separately mounted parts since they are constructed in different layers." Applicant respectfully disagrees with this rejection. Claim 1 and claim 14 recite that "the actuator (8) and the switching element (3;4) are separately mounted parts." The claims do not recite any structure regarding "layers." Even if Fackler does include "different layers," the layers in Fackler are still mounted together, as Fackler states that "a shoulder screw 72 and a nut 74 operate with a hole in the stator and rotor layers 60 and 62 for securing the switch 14 to the housing 12." Col. 4, lines 32-35. Moreover, the limitation of claim 1 and claim 14 stating that "the actuator (8) and the switching element (3;4) are separately mounted parts" relates to the fact that it is possible to mount the actuator without interacting with the mounting of the switching element, and that it is possible to mount the switching element without interacting with the mounting of the actuator.

Moreover, as stated in the previous Office action, Fackler does not teach an actuator and switching elements that are "separately mounted parts," as recited in the amended independent claims 1 and 14. Fackler describes that a "three-position switch 14 includes a disc-shaped stator layer 60 fixedly mounted to the housing 12, a disc-shaped rotor layer 62 rotatably mounted to the stator layer 60, a plurality of sandwich switches 66A-66F formed on the stator layer 60 adjacent the rotor layer 62, and a plurality of cams 68A-68C mounted on the rotor layer 62 for engaging and disengaging the sandwich switches 66A-66F upon rotation of the rotor layer 62. A shoulder screw

72 and a nut 74 operate with a hole in the stator and rotor layers 60 and 62 for securing the switch 14 to the housing 12." Col. 4, lines 25-35. Thus, Fackler describes a system that is mounted together. Therefore, the applicant respectfully requests that the rejection of claims 1-3, 7, 9-11, 14-15, 17-19, 23, 25-27 be withdrawn, as each of these claims depends from amended claims 1 and 14. In regards to claim 31, it is noted that claim 31 is similar to claim 1, except that claim 31 does not recite that the actuator is "relocatable." In regards to claim 33, it is noted that claim 33 is similar to claim 14, except that claim 33 does not recite that the actuator is "relocatable." Accordingly, the applicant respectfully requests that the rejection of claims 31 and 33 be withdrawn.

It is respectfully requested that the rejection of claims 4-6, 8, 12-13, 16, 20-22, 24, and 28-30, and 32 under 35 U.S.C. 103(a) as being unpatentable over Fackler (U.S. Patent No. 5,463,692) also be withdrawn. The Fackler reference does not disclose or suggest all of the elements recited in the claims, such as for example, the limitations already discussed in the independent claims 1 and 14 which these claims depend from, or the limitations of "the actuator (8) having a tongue protruding to the outside, with concave or convex recessed grip (12) on one or both sides" as recited in claims 8 and 24.

Furthermore, claims 30 and 32, which are dependent from claims 1 and 14, further recite that "the actuator (8) is mounted to a housing (2) and the switching element (3;4) is mounted to a printed circuit board (7)." Fackler only shows "a disc-shaped rotor layer 62 rotatably mounted to the stator layer 60." Col. 4, lines 25-35. Fackler also further only shows that "each sandwich switch 66A-66F includes a lower elastomeric layer 90 having a plurality of lower leads 92A-92F." Col. 5, lines 4-11. Thus, the Fackler reference does not teach or suggest the limitations of claims 30 and 32, where the actuator is mounted to a housing and the switching element is mounted to a printed circuit board. Therefore, the applicant respectfully requests that the rejection of claims 4-6, 8, 12-13, 16, 20-22, 24, and 28-30, and 32 be withdrawn, as each of these claims depends from amended claims 1 and 14.

Applicant would also like to direct attention to new claims 34-36, which are independent claims. Claims 34 and 35 recite each of the limitations present in claim 1, and are at least allowable for the same reasons that claim 1 is allowable. Furthermore, Claim 34 recites that "the actuator (8) and the switching element (3;4) are not directly

connected to each other." The three-position switch 14 in Fackler, which the Office action relates to the actuator of the present invention, and the sandwich switches in Fackler are a single assembly mounted on the housing and are fixedly connected to each other. Thus, Fackler does not teach or suggest "the actuator (8) and the switching element (3;4) are separately mounted parts and the actuator (8) and the switching element (3;4) are not directly connected to each other," and it is respectfully submitted that claim 34 is in condition for allowance.

Claim 35 further recites that "the actuator (8) can be replaced without affecting the switching element (3;4) which is left installed in the control element." It is appreciated that the Fackler reference requires that the shoulder screw 72 that secures the switch 14 to the housing 12, is in contact with both the stator and rotor layers 60, 62. Thus, any removal of the actuator (120, 125, 68A-68F) will affect the stator layer 60 through movement of the shoulder screw 72. Accordingly, it is respectfully submitted that claim 35 is in condition for allowance.

Claim 36 further recites each of the limitations present in claim 14, and is at least allowable for the same reasons that claim 14 is allowable. Claim 36 further recites that "whereby the actuator (8) is mounted directly to a housing (2) of the hearing device or hearing aid and the switching element (3;4) is mounted on a structure distinct from the housing (2); wherein the actuator (8) can be replaced without removing any structure touching the switching element (3;4)." Accordingly, it is respectfully submitted that claim 36 is in condition for allowance.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. TSW-36641.

Respectfully submitted,
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